DOCUMENT RESUME

ED 288 545 IR 052 212

TITLE	Contracting Out. National Oceanic and Atmospheric Administration's Central Library. Report to the Chairman, Subcommittee on Commerce, Justice, State, and the Judiciary, Committee on Appropriations, U.S. Senate.
INSTITUTION	General Accounting Office, Washington, D.C.
REPORT NO	GAO/RCED-87-184
PUB DATE	Aug 87
NOTE	16p.
AVAILABLE FROM	U.S. General Accounting Office, P.O. Box 6015, Gaithersburg, MD 20877 (1-5 copies free; additional copies $2.00 each).
PUB TYPE	Legal/Legislative/Regulatory Materials (090) -- Reports - Evaluative/Feasibility (142)
EDRS PRICE	MF01/PC01 Plus Postage.
DESCRIPTORS	*Administrative Change; Audits (Verification); *Contracts; Cost Effectiveness; Cost Estimates; Efficiency; *Government Libraries; Job Analysis; *Library Administration; *Library Personnel; Operations Research; Public Agencies
IDENTIFIERS	*National Oceanic and Atmospheric Administration; *Private Sector

ABSTRACT

In response to a request by the Senate Committee on Appropriations for an examination of the A-76 program of the Department of Commerce's National Oceanic and Atmospheric Administration (NOAA), in particular NOAA's decision to contract for the operation of its Central Library, this report describes a General Accounting Office (GAO) review which: (1) examined the A-76 process NOAA used for its Central Library for any irregularities; (2) examined the allegations/concerns raised by NOAA employees and the American Library Association (ALA) that directly related to the A-76 process NOAA used; and (3) investigated the legality of contracting the library's operation to a U.S. subsidiary of a foreign company. A letter from John H. Luke, Associate Director of GAO's Resources, Community, and Economic Development Division, summarizes the review and discusses OMB (Office of Management and Budget) Circular A-76 procedures, the status of the NOAA library review, an NOAA variance with procedures that was noted but did not affect the award of the contract, and the audit objectives, scope, and methodology. GAO findings on eight library employee and ALA allegations/concerns pertaining to the A-76 process and a listing of major contributors to the report are appended. (KM)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

GAO

United States General Accounting Office

Report to the Chairman, Subcommittee on Commerce, Justice, State, and the Judiciary, Committee on Appropriations, U.S. Senate

August 1987

CONTRACTING OUT

National Oceanic and Atmospheric Administration's Central Library

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

X This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

BEST COPY AVAILABLE

GAO

United States
General Accounting Office
Washington, D.C. 20548

Resources, Community, and
Economic Development Division

B-215002

August 6, 1987

The Honorable Ernest F. Hollings
Chairman, Subcommittee on Commerce,
Justice, State, and the Judiciary
Committee on Appropriations
United States Senate

Dear Mr. Chairman:

Your April 29, 1987, letter requested that we examine the Department of Commerce's National Oceanic and Atmospheric Administration's (NOAA's) A-76 program, giving particular attention to NOAA's decision to contract for the operation of its Central Library. Your letter noted that the library's employees were making a vigorous effort to have NOAA reconsider its decision, had solicited assistance from numerous Senators and Congressmen, and had written the Comptroller General of the United States on April 22, 1987. Your office subsequently received and forwarded to us a letter, for consideration in our review, from the American Library Association which raised several other issues related to the NOAA Central Library.

As agreed with your office, we focused our audit work on the propriety of the process NOAA used in its Office of Management and Budget (OMB) Circular A-76 determination to contract out the operation of its Central Library. Our work included examining eight concerns/allegations the library employees and the American Library Association raised. In addition, we agreed to determine the legality of having a U.S. subsidiary of a foreign company operate the library.

In summary, we found that NOAA's determination to contract out generally complied with OMB Circular A-76. However, in one instance NOAA's process varied from the procedures. The Circular requires a comparison of private sector and estimated government costs to perform specified work. The cost estimate for continued government operation of the NOAA library was based on a different scope of work than the private sector bids. For situations such as this, the Circular requires that the estimate be corrected but states that the solicitation should not be cancelled. We found that the variance was not material enough to affect NOAA's decision to contract out. Regarding the legality of a U.S. subsidiary of a foreign company operating the library, we are aware of no legal prohibition

to such a company entering into a contract to operate the library.[1] Furthermore, because the library collection contains no classified information, any restrictions regarding access to the collection for national security reasons—under either a contract with a foreign-controlled firm or a domestic firm—are not necessary.

OMB Circular A-76 Procedures

The Circular, revised August 4, 1983, directs government agencies to rely on the private sector for commercial products and services as long as the private sector is more economical than in-house services. The Circular describes how federal agencies are to determine whether their activities should be performed by the private sector or government employees. First, each agency should evaluate its activities to determine which ones are not suitable for contracting out because they are inherently governmental and which ones could be performed by the private sector. After evaluating its activities, the agency should prepare an inventory of all activities that could be performed by the private sector. The agency, in turn, should review each of these "commercial activities," comparing the government's cost to do the work with the private sector's cost. Such a review has four major elements—a management efficiency study, a performance work statement, contractor proposals and the government's (in-house) cost estimate, and a cost comparison.

The management efficiency study determines the most efficient and cost-effective way the government can continue to perform an activity and is the basis for the in-house cost estimate. The performance work statement describes what the activity produces along with what will be considered acceptable work. Both the in-house cost estimate and contractor bids are based on the work requirements specified in the performance work statement. The contractor with the lowest priced, technically acceptable bid is selected for the cost comparison with the in-house cost estimate. To account for conversion costs, at least a 10-percent savings in government personnel-related costs is required before in-house activities can be converted to commercial contracts.

[1] In Garrison Construction Co., Inc., B-220874, Oct. 31, 1985, we found no legal impediment to foreign corporations entering into service contracts with the federal government.

Status of NOAA Library Review

NOAA's A-76 review of its Central Library was conducted from April 1983 through October 1986. The library, located in Rockville, Maryland, contains specialized information in the environmental and related sciences and in marine and coastal resources and engineering. Organizationally, the library is a part of the Assessment and Information Services Center of NOAA's National Environmental, Satellite, Data and Information Service.

The management efficiency study was conducted by a private consultant, with participation from the library's managers. The study recommended that the then current level of about 29 positions be reduced to a most efficient organization of 21.3 positions. Ten modifications were made to the solicitation that included the performance work statement. Not all of the modifications revised the work statement and, according to NOAA, none of the revisions significantly affected the scope of work in the work statement. Two bids were received from private contractors, and they were found to be technically acceptable by a Source Evaluation Board, which evaluated the bids. The cost comparison of the in-house cost estimate, based on the 21.3 positions in the most efficient organization, and of the low contractor bid was independently verified by a public accounting firm. The cost comparison concluded that the library operations would be more cost-effective by contractor than by continued in-house performance.

On November 4, 1986, NOAA announced its decision to award a contract to the low bidder, Aspen Systems Corporation. A library employee appealed the cost comparison to Commerce's Assistant Secretary for Administration. The Assistant Secretary denied the appeal on February 4, 1987.

The size of the library staff has been reduced through attrition, and 11 permanent employees are currently operating the library. However, since September 1986 the library has been operating in a temporary office space due to asbestos found in the library facility. Therefore, it has not been performing the full scope of services included in the performance work statement, and a backlog of work has been accumulating because of the reduction in services.

On March 12, 1987, NOAA notified the Congress of its intent to award a contract for the operation of its library. The House approved the reprogramming action, but the Senate requested us to examine the A-76 process and withheld approval pending the results of our examination.

Variance With Procedures Noted but Decision to Contract Not Affected

Although NOAA generally complied with the Circular's procedures, it did not strictly follow the procedures in one instance. The in-house cost estimate was based on a different scope of work than the private sector bids, while the Circular requires that the bids be based on the same scope of work. The cost estimate was not revised when the collection development function (deciding which books and periodicals to purchase and retain) was deleted from the performance work statement on which the bids were based. According to NOAA's Principal Reviewer, the official responsible for revising the work statement and preparing the in-house cost estimate, this work load change would have reduced the in-house cost estimate by about one position, but that reduction would have been largely offset by a reduction in the number of technical contract monitors that Circular A-76 allows to be charged against the contractor's bid in the cost comparison. Since there would be little effect on the cost comparison and to expedite the review, the reviewer said that they did not revise the cost estimate.

We verified the effect of deleting the collection development function from the performance work statement, and we found that, if the in-house cost estimate had been adjusted, the contractor's bid would still have been lower and the contractor would still have won the competition. Hence, while NOAA should have revised the in-house cost estimate, the decision to contract out would not have been ultimately affected by a revised estimate. Our findings regarding the concerns/allegations raised by the library employees and the American Library Association are discussed further in appendix I.

Objectives, Scope, and Methodology

Our review objectives were to

- examine the A-76 process NOAA used for its Central Library for any irregularities,
- examine the allegations/concerns raised by the NOAA employees and the American Library Association that directly related to the A-76 process NOAA used, and
- determine the legality of contracting the library's operation to a U.S. subsidiary of a foreign company.

To accomplish these objectives, we conducted our work primarily at NOAA headquarters in Washington, D.C., and Rockville, Maryland. We interviewed library employees and NOAA officials responsible for the activities under review and obtained and reviewed pertinent procedures and documents. To obtain library management's perspective of the A-76

review, we interviewed the former Library Director and former Acting Library Director, the NOAA officials responsible for the library during the A-76 review. To gain an understanding of Circular A-76 policy, we discussed OMB and NOAA guidance with an OMB official responsible for A-76 policy. To verify the technical acceptability of the proposed contractor, we interviewed library officials from the National Institutes of Health Library and the National Library of Medicine, who comprised the Technical Committee of the Source Evaluation Board for the A-76 solicitation. To determine whether the library's operation can be contracted with a foreign entity, our Office of General Counsel examined pertinent laws, regulations, and legal decisions.

The audit work was conducted between May and July 1987 in accordance with generally accepted government auditing standards. The views of directly responsible officials were sought during the course of our work and are incorporated in the report where appropriate. However, at your request, we did not request agency comments on a draft of this report.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 3 days from the date of this letter. At that time we will send copies to appropriate House and Senate committees, Members of Congress, the heads of departments and agencies, and other interested parties.

Major contributors to this report are listed in appendix II.

Sincerely yours,

John H. Luke

John H. Luke
Associate Director

GAO Findings on Library Employees' and American Library Association's Allegations/ Concerns on the A-76 Process

Allegation 1

NOAA's Associate Administrator approved the management efficiency study 3 months before NOAA's Procurement Office ruled it inadequate as a source document for preparing the solicitation.

GAO Findings

According to NOAA's contract administrator, the Procurement Office did not rule the management efficiency study to be inadequate. The contract administrator explained that the Procurement Office contract staff is not shown the study so that they would not inadvertently disclose information on which the in-house cost estimate is based.

A management efficiency study is not used for solicitations but is mandatory for each Office of Management and Budget (OMB) Circular A-76 study. Such studies identify the essential functions to be performed, determine which functions are commercial in nature (contractible) and which are inherently governmental (noncontractible), determine performance factors, and determine the organizational structure, staffing, and operating procedures for the most efficient and cost-effective in-house performance of the activities under review. The most efficient organization defined by the management study is the basis for developing the in-house cost estimate. The management study should be consistent with the performance work statement that is used in solicitations.

The management study for the NOAA library was approved by NOAA's Associate Administrator before the final performance work statement was completed. The study was approved on February 27, 1984, and an updated study was approved on October 22, 1984. The solicitation, including a draft performance work statement, was issued on March 6, 1984, and modified on 10 occasions through October 17, 1985.

OMB's supplement to its Circular states that the management study and development of the performance work statement are "normally performed concurrently." The supplement also states that the study develops the most efficient organization, taking into account the provisions of the work statement. The work statement need not be completely written before the study is complete. However, the supplement requires that major decisions be made on performance standards in the work statement and on whether compliance with the existing procedures is mandatory before the most efficient organization can be developed. NOAA officials said that the management study and initially approved performance work statement were based on the same performance standards and scope of work. According to an OMB official responsible for A-

76 policy, OMB prefers that the study and the work statement be performed concurrently; however, agencies have the option to complete the study first.

Therefore, completing the performance work statement concurrently with the management efficiency study would help ensure that the most efficient organization is based on the same scope of work and performance standards, but it is not mandatory.

Allegation 2

The performance work statement used as a basis for the solicitation was inaccurate and out of date.

GAO Findings

NOAA issued the solicitation for the operation of its Central Library on March 6, 1984. The solicitation included a draft performance work statement which was revised on October 12, 1984, with modification #1 to the solicitation. Additional revisions were made to the work statement, including revisions on August 13, 1985, that the Principal Reviewer characterized as "major." Revisions to the work statement included closing date changes, changes in the physical inventory requirements, and the deletion of the collection development function (deciding which books and periodicals to purchase and retain). Hence, although the solicitation initially used a draft performance work statement, modifications to the solicitation updated the work statement that was used in the bid solicitation.

Allegation 3

The in-house cost estimate was never revised to respond to changes made to the performance work statement.

GAO Findings

Circular A-76 requires that the in-house cost estimate be based on the same performance work statement used in the solicitation. The Circular also states that the cost comparison be independently reviewed to assure that the in-house estimate is based on the same performance work statement used in the solicitation. If there are "significant changes, omissions or defects" in the in-house cost estimate, the Circular requires that the estimate be corrected but states that the solicitation should not be cancelled.

The in-house cost estimate for the Central Library was not based on the same performance work statement as the private sector bids. Therefore,

NOAA did not strictly conform to the Circular's procedures. For situations such as this, the Circular states that the in-house cost estimate should be corrected but that the solicitation should not be cancelled. As discussed below, if the in-house cost estimate had been corrected, the contractor's bid would still have been more than 10 percent less expensive than continuing to operate the library with government employees.

Although revisions were made to the performance work statement, the in-house cost estimate was not revised to respond to those revisions. According to the Principal Reviewer and the former Acting Library Director, the officials who rewrote the work statement in August 1985, the most significant change was the deletion of the collection development function. According to the Principal Reviewer, this deletion could have reduced the in-house cost estimate by one staff year, but that reduction would have been largely offset by a reduction in the number of technical contract monitors that Circular A-76 allows to be added to the contractor's bid in the cost-comparison process. Because there would be little effect on the cost comparison and to expedite the review, the reviewer said that NOAA did not revise the in-house cost estimate. NOAA's Independent Reviewer said that he was told by the Principal Reviewer that changes to the performance work statement were not significant. We noted that NOAA's management study showed that this function historically required about 0.8 staff years (primarily GS-12's). The former Acting Library Director said that another deletion, providing security and access to the library's rare book collection, would bring the total work load deletion to about one staff year of a GS-12. We also verified that the supplement to Circular A-76 (p. IV-37) would have reduced the number of contract monitors allowed to be added to the contractor's bid by one if the in-house staffing had decreased from 21 positions to 20 positions.

We recomputed the cost comparison assuming that the most efficient organization would have been decreased by one GS-12 position. The results of NOAA's cost comparison and our adjusted cost comparison for the 5-year contract period are shown in table I.1.

Table I.1: NOAA and GAO Cost Comparison

	NOAA cost comparison	GAO adjusted cost comparison[a]
In-house cost estimate	$3,674,648	$3,426,439
Total contract costs[b]	2,756,658	2,546,764
Difference	$917,990	$879,675

[a]One GS-12 position deleted from the most efficient organization used to compute the in-house estimate.

[b]Includes a 10-percent conversion differential which is added to contract costs for A-76 cost comparison purposes.

As the comparison indicates, we verified that the reduction of the in-house cost estimate would have been largely offset by a decrease from two to one in the number of contract administrators that the Circular allows to be added to the contract. Therefore, if NOAA had adjusted the in-house cost estimate for the collection development function deletion, the contractor's bid still would have been lower.

Although not directly related to the A-76 review process, we found that NOAA did not add additional government staff to perform the deleted collection development function nor revise the position descriptions of remaining staff to show which staff member(s) will be assigned the additional duty. Since it was not clear who would carry out the collection development, the possibility arose that collection development might not be fully performed and the NOAA library collection would deteriorate or that additional staff is needed to perform this function. We brought this to NOAA's attention and, according to NOAA officials, the core government staff and their position descriptions will be adjusted to ensure that the collection development function is performed.

Allegation 4

Information about the cost savings to the government was disclosed before the cost comparison was completed. (NOAA's National Environmental, Satellite, Data and Information Service (NESDIS) included the number of full-time equivalent employees funded as of April 1, 1986, in a management plan.)

GAO Findings

OMB's supplement to the Circular states that the "confidentiality of all cost data . . . must be maintained to ensure that government and contract cost figures are completely independent." Disclosing cost savings from the planned implementation of management efficiency studies

before the cost comparison is completed might compromise the competitive bidding process because information related to the in-house cost estimate would be available to private sector bidders. However, disclosing staff levels that are based upon an existing organizational structure, not upon a management efficiency study, would not compromise the bidding process because such information does not indicate the amount of the in-house cost estimate.

The alleged disclosure involved projections of staff positions that would be funded under the existing organizational structure, not under the management efficiency study's recommended most efficient organization. Although the alleged disclosure that 22 positions were funded as of April 1, 1986, approximated the 21.3 positions in the most efficient organization, the management plan revealed to the reader that 22 positions were funded but did not refer to the most efficient organization. Because this revealed information based on an existing organizational structure and not on the management efficiency study's recommended organization, such disclosure would not have violated the Circular's procedures.

Allegation 5

The Notification of Proposed Reprogramming sent to the Congress on March 12, 1987, erroneously assumed that those employees who can retire, will retire. The notice also stated that two employees may be offered positions in NESDIS's Assessment and Information Services Center (AISC), but the head of NESDIS had previously announced that the AISC would be abolished.

GAO Findings

Regarding the effects on the library's permanent employees, the Notification of Proposed Reprogramming states, in part:

"As of December 8, 1986, savings through attrition reduced the office [library staff] to 11 full-time permanent employees . . .. Of these permanent employees, three are eligible for optional retirement, three will be eligible for discontinued service retirement, two may be offered other AISC positions, and three are anticipated to be separated from Government service (assuming the eligible employees retire and the two employees are offered other Federal employment)."

The notice sent to the Congress on March 12, 1987, did not state that the employees eligible for retirement were planning to retire. The document noted that certain employees effected by the contracting out action were eligible for retirement. We are not aware of any requirement that NOAA

verify that the number of employees reported in reprogramming notices as eligible to retire will actually choose to retire.

Regarding the two employees to be offered positions in NESDIS, the two positions are the two contract administrator positions to be created to monitor the library contract. According to NOAA officials, these positions will be needed even if AISC, which is being studied by a NESDIS Task Force, is abolished.

Allegation 6

There seems to be a cover up of a report prepared by a staff member in NOAA's A-76 office. The report included a comparison of the process used for NOAA's Central Library and its Mountain Administrative Support Center Library in Boulder, Colorado.

GAO Findings

The library staff had not seen the study report prepared by the A-76 office staff member. The staff member did prepare three drafts of a report; however, a report was not published. One of the drafts included allegations of improprieties by a former NOAA employee and was sent by NOAA's Deputy Administrator to Commerce's Inspector General. At the time of our review, the Inspector General's Office was investigating those alleged improprieties. If the employees wish to pursue this issue further, they can request to view the report drafts under the Freedom of Information Act.

Allegation 7

The inaccurate solicitation sets the stage for expensive contract modifications by which the contractor, who has "bought in," can increase profits without competition.

GAO Findings

The proposed contract is a 5-year (base year and 4 option years) fixed-price contract. Contract costs can be increased if the work load increases by 5 percent over that set forth in the solicitation. Conversely, the contract price can be decreased if the work load decreases 5 percent. The work statements in the solicitation were developed with input from library managers. According to the former Acting Library Director, who helped write the August 1985 revisions to the performance work statement, except for the deleted collection management function and the security of the rare book collection, all known tasks will be covered by the contract. As mentioned in our findings on allegation 3, the deleted

tasks will be performed by government employees. However, NOAA officials, including the current Acting Library Director, told us that because the library is not fully operating there is a backlog of work. If this backlog increases the work load by more than 5 percent, it could increase costs.

In discussing this issue with library staff, they pointed out that the contractor's bid decreased each year. According to information in the contract file, this decrease was based on the assumption that volunteer staff will be used and such use will increase by 0.5 staff years each year. The members of the Technical Committee of the Source Evaluation Board told us that although the proposed staffing was minimal, they found the contractor's bid to be acceptable.

Allegation 8

The current library staff can operate the facility $110,000 cheaper than the first-year cost under the proposed contract with Aspen Systems Corporation.

GAO Findings

According to library staff, this estimate is based on the current staff on board and not on any performance work statement or the most cost efficient organization. NOAA officials, including the Acting Library Director, pointed out that the library has not been fully operating because the facility has been closed for asbestos clean-up since September 1986, and the current staff cannot fully operate the library.

We explored the effect on the cost comparison if the currently filled positions were the basis for the in-house cost estimate. We found that the in-house cost estimate would have been lower than the contract by about $20,700 the first year and by about $283,000 (including the 10-percent conversion differential added to the contract costs) over the 5-year contract period. The difference between our estimate and the library staff's estimate for the first year was largely because the library staff used a 15-percent fringe benefit rate, while Circular A-76 called for a 35.85-percent rate. Therefore, if the current library staff could operate the library, they would be less expensive than the proposed contract. However, we did not find any evidence that the current staff could fully operate the library.

Major Contributors to This Report

Resources, Community, and Economic Development Division, Washington, D.C.	John H. Luke, Associate Director, (202) 275-6111 Frank V. Subalusky, Group Director Sumikatsu J. Arima, Evaluator-in-Charge Shirley A. Perry, Writer-Editor Cynthia C. Pinkney, Typist
Office of the General Counsel, Washington, D.C.	Barry R. Bedrick, Managing Attorney Jane R. Sajewski, Attorney-Advisor

Requests for copies of GAO reports should be sent to:

U.S. General Accounting Office
Post Office Box 6015
Gaithersburg, Maryland 20877

Telephone 202-275-6241

The first five copies of each report are free. Additional copies are $2.00 each.

There is a 25% discount on orders for 100 or more copies mailed to a single address.

Orders must be prepaid by cash or by check or money order made out to the Superintendent of Documents.